

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
APRIL 6, 2021**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO APPLY FOR STATE INFRASTRUCTURE FINANCING AUTHORITY WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (SWIFIA) FINANCING FOR THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM

DISCUSSION

The CWSRF has outstanding commitments (i.e., executed funding agreements) of approximately \$2.1 billion as of February 2021. The State Fiscal Year (SFY) 2020-21 CWSRF Intended Use Plan (IUP) Fundable List includes another \$2.5 billion in potential new commitments, and the Division of Financial Assistance (DFA) is preparing the SFY 2021-22 IUP for the State Water Resources Control Board's (State Water Board's) consideration, which is expected to add additional projects to the Fundable List. Although the cash flow needs for the CWSRF are dynamic, DFA's cash flow analysis of the current and potential new commitments indicates that the CWSRF program will need additional cash in 2022.

The CWSRF's past cash needs have been met in part through the sale of tax-exempt revenue bonds in the municipal bond market. DFA has recently evaluated using SWIFIA to provide additional cash for the CWSRF program. SWIFIA is a new financing program run by the U.S. Environmental Protection Agency (EPA) exclusively for state infrastructure financing authority borrowers; it was authorized by Congress in Section 4201 of America's Water Infrastructure Act (AWIA) of 2018. The financial impact on the CWSRF of borrowing from SWIFIA is expected to be similar to the impact of selling revenue bonds. SWIFIA, however, has more flexible draw terms than bonds, allowing the CWSRF to draw down funds as needed rather than in a lump sum as with a bond sale. SWIFIA also does not have the tax compliance requirements associated with tax-exempt municipal bonds.

On October 3, 2017, the State Water Board approved Resolution No. 2017-0057 increasing the leveraging ceiling for the CWSRF program from \$1.2 billion to \$2.2 billion bonds (par value). Currently, approximately \$1.08 billion of bonds (par value) is outstanding.

On September 15, 2020, DFA submitted a letter of interest to the SWIFIA program requesting SWIFIA financing of \$500,000,000. Subsequently, DFA received a November 16, 2020, letter from SWIFIA inviting the State Water Board to submit an application for up to \$500,000,000 in SWIFIA financing.

The California Infrastructure and Economic Development Bank (IBank) was created in 1994 and operates pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (Government Code Sections 63000-63089.98). The IBank is authorized to act as a conduit issuer of bonds on behalf of the State Water Board and has acted as a conduit issuer of new bonds for the CWSRF program in 2002, 2016, 2017, and 2018. The IBank also refunded bonds, i.e., issued new bonds with a shorter term and lower debt service, for the CWSRF in 2012.

The bonds issued by IBank were issued pursuant to the Amended and Restated Master Trust Indenture, dated April 1, 2019 (Master Trust Indenture), and its precursor, and the Amended and Restated Master Payment and Pledge Agreement, dated April 1, 2019 (Master Payment and Pledge Agreement), and its precursor, between IBank and the State Water Board. SWIFIA financing for the CWSRF program is expected to be structured as a bond under the Master Trust Indenture and Master Payment and Pledge Agreement.

The purpose of this proposed resolution is to authorize the Executive Director or designee(s) of the State Water Board to submit an application for SWIFIA financing and pay costs associated with submitting an application for SWIFIA financing. The resolution would also authorize the Executive Director or designee(s) to work with IBank to negotiate SWIFIA financing documents consistent with the Master Trust Indenture and the Master Payment and Pledge Agreement between IBank and the State Water Board.

POLICY ISSUE

Should the State Water Board authorize the Executive Director or designee(s) to apply for SWIFIA financing to provide additional cash for the CWSRF program and pay costs associated with submitting an application for SWIFIA financing?

Should the State Water Board authorize the Executive Director or designee(s) to work with IBank to negotiate SWIFIA financing documents consistent with the Master Trust Indenture and the Master Payment and Pledge Agreement between IBank and the State Water Board?

FISCAL IMPACT

A \$100,000 application fee is due to EPA when the SWIFIA application is submitted. (The remainder of the application fee can be financed as part of the SWIFIA financing.) The SWIFIA application must also include a preliminary rating opinion letter from a nationally recognized statistical rating organization describing the applicant's ability to obtain an investment grade rating; the cost for this is estimated at \$35,000 or less. These would be paid from the capitalization grant administrative set-aside. Currently the CWSRF has an estimated \$30 million available from the administrative set-aside.

State Water Board staff and consultant costs associated with submitting the SWIFIA application will be covered by the administrative accounts currently used to pay staff and consultant costs and will be absorbed in the currently budgeted amounts.

The cost of borrowed capital will be paid from past retained earnings and future earnings. The effect on the financing capacity of the CWSRF due to the cost of borrowing additional capital through SWIFIA will be evaluated on an ongoing basis as part of completing or updating the CWSRF's annual IUP.

REGIONAL BOARD IMPACT

There will be no direct Regional Water Quality Control Board (Regional Water Board) impact. Accepting SWIFIA financing will provide more cash with which to fund current and near term CWSRF projects that support the Regional Water Boards' efforts.

STAFF RECOMMENDATION

The State Water Board should authorize the Executive Director or designee(s) to apply for SWIFIA financing on behalf of the State Water Board to provide funds for the CWSRF program and pay costs associated with submitting an application for SWIFIA financing from the CWSRF's administrative set-aside.

The State Water Board should authorize the Executive Director or designee(s) to work with IBank to negotiate SWIFIA financing documents consistent with the Master Trust Indenture and the Master Payment and Pledge Agreement between IBank and the State Water Board.